

Ohio Ironworkers Case

PM3003572274

1 A. Yes.

2 Q. Again, assuming that there are some people
3 who are unable or unwilling to quit smoking, that a
4 safer alternative should be made available to them,
5 correct?

6 A. Right.

7 Q. Okay. Now, if you look at the bottom of the
8 left column on the first page, it sort of sums that up
9 in saying, "Until then," he's referring to the
10 elimination of smoking, "it is important to protect
11 those who continue to smoke despite all warnings.
12 Leaving them to their fate is neither humane nor
13 economic, particularly when there is evidence that their
14 risk can be reduced substantially in at least two ways.

15 "First, it may be possible to remove toxic
16 smoke components selectively and thus reduce specific
17 hazards. Second, the well-established dose-responsive
18 evidence suggests that, if the total intake of smoke in
19 the population can be reduced, after an appropriate time
20 a reduction in disease incidence should also occur, as
21 demonstrated for smokers of filter cigarettes."

22 Do you see that?

23 A. Yes.

24 Q. What is he talking about when he says, "the
25 well-established dose-responsive evidence"?

1 MR. DOWD: Objection. Speculation.

2 THE WITNESS: Well, that indicates that for
3 some smoking-related diseases, the more you smoke, the
4 more disease you incur. And conversely, if you smoke
5 less, you have less of a disease risk.

6 MS. FEE: Q. Now, if I could turn your
7 attention to the right-hand column on the first page,
8 the second full paragraph that begins with, "Because,"
9 "Because of its overwhelming pharmacologic contribution,
10 however, nicotine plays an important role in controlling
11 smoking behavior. Within smoke the alkaloid exists in
12 both the protonated and unprotonated form."

13 Let me stop there. He's talking about bound
14 nicotine versus free nicotine, correct?

15 A. Yes.

16 Q. The protonated being the bound and the
17 unprotonated being the free?

18 A. Correct.

19 Q. Okay. "The latter form," being the free,
20 "increases with increasing alkalinity of the smoke and
21 appears to be more readily absorbed; more important
22 still, it has decidedly satisfying effects on the
23 smoker's taste receptors. Within certain value ranges,
24 high levels of nicotine, high smoke pH values, and high
25 ratios of unprotonated to protonated nicotine increase

1 the Premier, the reduction of tar, the less complicated
2 smoke and so forth -- strike that.

3 Okay. He goes on to say, in the following
4 sentence, after the political and irrational remark,
5 "However, the Premier product which your company
6 market-tested was handicapped by its low nicotine
7 delivery and strange taste."

8 So there, Dr. Russell is saying that, if
9 anything, the Premier didn't provide enough nicotine.
10 Would you agree that's what he's saying?

11 A. That's what he said. But actually, blood
12 levels are not too different from cigarettes.

13 Q. Then he says, "I realize also that your
14 company was handicapped in being unable to promote it as
15 a safer product."

16 What do you think he's referring to there?

17 MR. DOWD: Objection. Speculation.

18 THE WITNESS: Well, I think the problem has
19 been that if you don't acknowledge that there's any
20 hazard to the first product, you can't promote something
21 as a safer product.

22 That was the issue, that there's always been
23 a claim by U.S. tobacco companies that there's no
24 evidence that smoking causes harm.

25 In Europe, that's actually not been the case,

1 and they've been more free to discuss this issue. And I
2 think that's what he's talking about.

3 MS. FEE: Q. So is it your understanding
4 that even if R J. Reynolds Tobacco Company said that its
5 tobacco-burning products were not safe, even if it were
6 to say that, that it would be permitted by the FTC to
7 say that Premier was safer?

8 A. Well, maybe not safer. I don't know if FTC
9 would do that, but I think at least in the current
10 climate, FDA would certainly consider that.

11 Q. Would allow Reynolds to market the product as
12 a safer alternative?

13 A. I think in the current environment, with some
14 research to actually quantitate exposure and perhaps
15 some biological research, I think that's a possibility.
16 And I think that's a possibility for Eclipse.

17 Q. Okay.

18 A. It's not FTC. It would be FDA. Because FTC
19 doesn't really have the capability to evaluate safety,
20 safety claims. FDA does.

21 Q. But the FTC has responsibility for evaluating
22 advertisements, though, don't they?

23 A. Right. But I don't think they'd have any way
24 to make any judgments about safety. I think they would
25 have to refer to something like FDA.